

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JAMES CHEATHAM,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

-----X

ROSLYNN R. MAUSKOPF, Chief United States District Judge.

MEMORANDUM AND ORDER

18-CV-2388 (RRM) (LB)

Plaintiff James Cheatham, proceeding *pro se*, filed the instant action on April 13, 2018, pursuant to 42 U.S.C. § 1983, asserting claims regarding the conditions of his confinement on Rikers Island. In an Order entered on April 2, 2019, this Court granted Cheatham's request to proceed *in forma pauperis* and dismissed the complaint for failure to state a claim upon which relief may be granted. (Doc. No. 7.) Cheatham was also granted leave to file an amended complaint – and did so on September 9, 2019. (Doc. No. 13.) In an Order entered on January 14, 2020, Cheatham's amended complaint was dismissed for failure to state a claim and Cheatham was granted 30 days from the date of the Order to file a second amended complaint. (Doc. No. 14.) To date, Cheatham has not filed a second amended complaint and the time for doing so has passed.

Accordingly, for the reasons set forth in the Court's Memorandum and Order dated January 14, 2020, this action is dismissed, without prejudice, for failure to state a claim upon which relief may be granted. FED. R. CIV. P. 12(b)(6). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962). The Clerk of Court is directed to enter judgment and close this

case. A copy of this Order and the Judgment shall be mailed to Cheatham and the mailing shall be noted on the docket.

SO ORDERED.

Dated: Brooklyn, New York
May 19, 2020

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
Chief United States District Judge